

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION

RANDALL J. BAKER,

Plaintiff,

vs.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

No. C07-0001

**ORDER ON APPLICATION FOR
ATTORNEYS FEES**

This matter comes before the court on the Application for Attorneys Fees Under the Equal Access to Justice Act (docket number 17) filed by the Plaintiff on November 20, 2007. On November 30, 2007, the Defendant filed a Response (docket number 18), indicating that the Defendant has no objection to Plaintiff's request for attorney fees in the amount of \$2,371.17.¹ However, Defendant "objects to Plaintiff's counsel's request that payment under the EAJA be made directly to counsel" and requests that the Court enter an order awarding attorney fees "to be paid to Plaintiff."

Under these circumstances, the Code authorizes an award of attorney fees to "a prevailing party." 28 U.S.C. § 2412(d)(1)(A). In another context, the Supreme Court has held that an award of attorney's fees under a fee-shifting statute belongs to the prevailing party, rather than the prevailing party's attorney. *Venegas v. Mitchell*, 495 U.S. 82, 87-88 (1990). Accordingly, the Court finds that judgment in this regard should enter in favor of the Plaintiff, rather than Plaintiff's attorney.

¹ The request is for \$2,371.23 but when the hourly rate is multiplied by the number of hours, the correct amount is \$2,371.17.

ORDER

IT IS THEREFORE ORDERED that **JUDGMENT** will be entered in favor of the Plaintiff for attorney fees in the amount of Two Thousand Three Hundred Seventy-One Dollars and seventeen cents (\$2,371.17) to be paid by the Social Security Administration.

DATED this 11th day of December, 2007.



JON STUART SCOLES
United States Magistrate Judge
NORTHERN DISTRICT OF IOWA